

REMARKS

Claims 1-3, 5-7, 9-11 and 13-19 are pending in the present application. The Examiner rejected the pending claims under 35 U.S.C. § 102(b) as being anticipated by Wiser et al. (U.S. Patent No. 6,385,596) in a final Office Action dated December 9, 2008.

Applicants note with appreciation the Examiner's courtesy during a telephone interview with the undersigned and Mr. Nobuyuki Takahashi of Yamaha on February 24, 2009 and a follow-up telephone interview with the undersigned on March 4, 2009.

During the February telephone interview, the Examiner focused on the method of claim 5. Claim 5 is directed to a song reproduction method executable by a song data reproduction apparatus (*e.g.*, a client terminal). The apparatus sends "an order for requesting a purchase or preview of a content of a music performance to a server." Claim 5 then recites other steps performed by the apparatus. One of those steps is "determining whether the song data has already been stored in the storage." This step is performed irrespective of whether the order information indicates purchase or preview.

As discussed during the interview, the Examiner apparently read this determining step as being performed by the server as opposed to the apparatus. Thus, in the final Office Action, the Examiner cited to operations performed on the server side in Wiser as meeting the recited determining step. Accordingly, Applicants respectfully requested that the Examiner reconsider his rejection based on Wiser, and the Examiner indicated that he would do so and would follow-up with another telephone interview.

During the March telephone interview, the Examiner indicated that he tentatively believed that Wiser did not disclose the determining step when properly understood as being performed by the apparatus as opposed to the server. The Examiner requested that the Applicants file a request for reconsideration, and stated that he would withdraw the finality of the present Office Action and issue a new non-final Office Action in due course. Accordingly, Applicants submit this request for reconsideration.

It should be emphasized that there are a number of other recitations in the claims that provide additional reasons for the Examiner withdrawing the rejection based on Wiser. Those additional reasons are set forth in detail in the Applicant's previous response.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss the steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032043200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

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